

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 5316 OF 2024

Shri. Birudev Bapurao Rakshe ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Rushikesh Kale a/w Mr. Dhananjay Krishnanath Bhosale, learned Advocates for the Applicant.

Ms. Veera Shinde, learned A.P.P. for the State/Respondent.

Ms. Kanchan Pawar, learned Advocate for Respondent No. 2.

CORAM : ASHWIN D. BHOBE, J.

DATE : 7th AUGUST 2025.

P.C. :

1. Heard Mr. Rushikesh Kale, learned Advocate for the Applicant, Ms. Veera Shinde, learned A.P.P. for the State/Respondent and Ms. Kanchan Pawar, learned Advocate for Respondent No. 2.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 64 of 2024 registered with Mangalwedha Police Station, District-Solapur Rural for the offences punishable under Sections 363, 376, 376(2)(n), 376(3) and 506 of the Indian Penal Code, 1860 (“**IPC**” for short) and Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act, 2012 (“**POCSO Act**” for short).

3. Mr. Rushikesh Kale, learned Advocate for the Applicant submits that the abovesaid crime is registered as Special Case No. 17 of 2024 and is pending before the Court of Special Judge, Pandharpur.

4. There are 2 accused persons in the present crime. Applicant is Accused No. 1 and his sister Sangita Kampanna Hiremath is Accused No. 2.

5. Crime was registered at the instance of Respondent No. 2 (mother of the victim). Case of the prosecution is that on 28th January 2024, the victim was found missing. Victim was thereafter found with the Applicant in the city of Belgaum, State-Karnataka. On the basis of allegations of the victim being subjected to repeated penetrative sexual intercourse, the aforesaid crime was registered.

6. Applicant was arrested on 31st January 2024, since then he is in jail. Criminal Bail Application at Exhibit-14 filed by the Applicant in Sessions Case No. 17 of 2024, was rejected by the learned Special Judge, Pandharpur by order dated 21st September 2024.

7. Mr. Rushikesh Kale, learned Advocate for the Applicant submits that the allegations against the Applicant of the Applicant having committed penetrative sexual intercourse with the victim, are false and not borne out from the records. He submits that the Applicant had friendly relation with the victim. He submits that the victim had travelled with the Applicant for almost 304 kms. from Mangalwedha upto the city of Belgaum. He submits that the victim was residing with the family of Applicant for two days. At

that time, victim did not allege of she being subjected to any violent treatment. He submits that the victim was happily residing with the Applicant and his family in the city of Belgaum. He submits that the medical evidence does not support the case of prosecution. He submits that till date the charge is not framed.

8. Ms. Veera Shinde, learned A.P.P. for the State/Respondent submits that though there are allegations of repeated penetrative sexual intercourse being made by the Applicant, the medical examination report of the victim does not support the said claim of victim.

9. Ms. Kanchan Pawar, learned Advocate for Respondent No. 2 submits that the victim has narrated the manner in which she was subjected to sexual assault by the Applicant. She submits that the sister of Applicant was instrumental in harassing the victim. She submits that after the complaint being lodged, Accused No. 2 had been threatening the victim and pressurizing her to withdraw the complaint. She relies on the document dated 1st July 2024 i.e. Application filed by the victim before the Special Judge, Pandharpur making reference to the threats issued to the victim by the family members of victim. She submits that in the event bail is granted to the Applicant, he will misuse his liberty and thereafter tamper with the evidence and threaten the prosecution witnesses.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. Allegations against the Applicant are of he committing repeated penetrative sexual intercourse with the victim. Medical

Report of the victim at page no. 32 of the paper-book does not support the case of prosecution. Records reveal that the victim travelled with the Applicant for almost 300 kms. from the city of Solapur to the State of Karnataka. There are no allegations of the Applicant committing any violent act on the victim while she was staying with the family of Applicant in Belgaum. Applicant is 23 years of age and is in jail since 31st January 2024. Charge-sheet has been filed. Till date charge is not framed in the matter.

12. Considering the material on record, which include the Medical Report of the victim, continuation of the Applicant in jail during pendency of the trial is not warranted. Applicant is therefore entitled to bail.

13. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 64 of 2024 registered with Mangalwedha Police Station, District-Solapur Rural for the offences punishable under Sections 363, 376, 376(2)(n), 376(3) and 506 of the IPC and Sections 4, 8 & 12 of the POCSO Act on executing PR. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two sureties in the like amount to the satisfaction of the Special Judge, Pandharpur.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade

him from disclosing such facts to the Court or to any police officer.

- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Mangalwedha Police Station, District-Solapur Rural and shall keep the same updated, in case of any change thereto.
- e. Applicant shall co-operate in the conduct of the trial of Special Case No. 17 of 2024 and shall regularly attend the hearing of the case pending on the file of Special Judge, Pandharpur, on each and every date, unless exempted from appearance.

14. Criminal Bail Application No. 5316 of 2024 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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by GITALAXMI
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KOTAWADEKAR
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